IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

WP(C).No. 29367 of 2006(U)

PETITIONER:

JOSEMON M.G.,
MUKALUVILA PUTHEN VEEDU, KAKOLIL,
KUNDARA P.O., KOLLAM, PEON-CUM-NIGHT WATCHMAN,
THE KUNDARA PANCHAYATH SERVICE CO-OPERATIVE
BANK LTD. NO.401.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:
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1. **THE BOARD OF DIRECTORS,**
   THE KUNDARA PANCHAYAT SERVICE CO-OPERATIVE BANK
   LIMITED NO.401, KUNDARA, KOLLAM,
   REPRESENTED BY ITS PRESIDENT.

2. **THE SECRETARY,**
   THE KUNDARA PANCHAYAT SERVICE CO-OPERATIVE BANK
   LIMITED NO.401, KUNDARA, KOLLAM.

3. **THE JOINT REGISTRAR OF CO-OPERATIVE**
   SOCIETIES (GENERAL), KOLLAM.

BY ADV. SRI.T.R.HARIJUMAR for R1
BY GOVERNMENT PLEADER SMT. M.K.PUSHPALATHA for R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.29367/2006 U

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF LETTER OF APPOINTMENT DTD. 3/06/06 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT.**

EXT.P2: **COPY OF LETTER DTD. 29/08/06 ISSUED BY THE 2ND RESPONDENT.**

EXT.P3: **COPY OF ORDER DT.D 21/06/06 ISSUED BY THE 3RD RESPONDENT.**

EXT.P4: **COPY OF LETTER DTD. 19/09/06 ISSUED BY THE 1ST RESPONDENT.**

/TRUE COPY/

P.A.TO JUDGE

KSS

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.29367 OF 2006

Dated this the 26th day of November, 2007

JUDGMENT

By Ext.P3, the third respondent Joint Registrar held that the appointment of the petitioner in terms of Ext.P1 is not sustainable. Following that the employer society removed the petitioner from service as per Ext.P2. Indisputably, even going by the impugned order, the petitioner was not heard. The fact that he was appointed and was continuing in service is not in dispute. Under such circumstances, this writ petition is allowed quashing Exts.P2 and P3 on the short ground of violation of the rules of natural justice, including the rule of fair hearing and the third respondent is directed to hear the petitioner and respondents 1 and 2 and take a decision de novo.

On 8.11.2006, this Court had directed the first respondent to allow the petitioner to continue in service as Peon-cum-watchman. Therefore, it shall be deemed that the petitioner is continuing in service and entitled to benefits in terms thereof.

However, this direction will not stand in the way of the employer society to deal with the petitioner in accordance with law, since it is submitted on behalf of the society that the petitioner has been unauthorisedly absent in spite of repeated notices.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.